IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

WP(C).No. 6519 of 2007(A)

PETITIONER:

P.SHAHUL HAMEED,
S/O.MOHAMMED, PULAKKAL (H), ONGALLUR,
POST KALLADIPATTA, PALAKKAD DISTRICT.

BY ADV. SRI.P.VIJAYA BHANU

RESPONDENTS:

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1. **THE DIRECTOR GENERAL OF POLICE,**
   OFFICE OF THE DIRECTOR GENERAL OF POLICE,
   THIRUVANANTHAPURAM, KERALA.

2. **THE SUPERINTENDENT OF POLICE,**
   PALAKKAD.

3. **THE CIRCLE INSPECTOR OF POLICE,**
   PATTAMBI POLICE STATION.

4. **THE DEPUTY SUPERINTENDENT OF POLICE,**
   (CRIME BRANCH), PLAKKAD.

BY GOVERNMENT PLEADER SRI.M.S.BREEZ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/08/2007 ALONG WITH WPC NO. 6541 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J.

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W.P.C.Nos. 6519 & 6541 of 2007

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Dated this the 9th day of August 2007

J U D G M E N T

The common petitioner in these two crimes is an accused in crime Nos. 49/07 and 50/07, both registered at the Pattambi Police Station. Crime No.49/2007 is registered on the allegation that the petitioner had attempted to cause death of one Ali on 18.1.07. Investigation into that crime is pending.

2. Crime No.50/2007 is registered under the Arms Act on the allegation that on 20.01.07 when the premises of the petitioner was inspected in connection with the investigation of Crime No.49/2007, certain objectionable arms were found available without legal authority or sanction in the possession of the petitioner. Both those crimes are now being investigated by the Circle Inspector of Police, Pattambi Police Station. Initially investigation was conducted by the Sub Inspector of Police. Later the investigation of both those crimes has been taken over by the 3rd respondent, the Circle Inspector of Police, Pattambi Police Station.

3. The petitioner has now come to this Court with these writ

petitions raising a grievance that proper investigation is not being conducted by 3rd respondent that is the Circle Inspector of Police, Pattambi Police Station, on account of his ill will and animosity against the petitioner. Earlier Crime Nos.129/2004 and 353/2004 relate to offences committed against the petitioner by one Kunjabdulla, relative of Ali, the alleged victim in Crime No.49/2007. It is the case of the petitioner that Pattambi Police has not conducted proper investigation into the said crimes 129/2004 and 353/2004 because of the disagreement and animosity which the Police entertained towards the petitioner.

4. The petitioner has a further grievance that crime No.397/2004 was registered against the petitioner. Investigation into that crime was also not conducted properly by the Pattambi Police. That crime was registered as a counter case to crime No.353/07. According to the petitioner he was compelled to come to this Court with writ petitions 2046/2006 and 21187/2005 raising allegations against the respondent-Pattambi Police and officials therein. Because of all these, the petitioner apprehends that proper, fair and honest investigation will not be conducted into the

Crime Nos. 49/2007 and 50/2007, both registered against the petitioner. Right of fair and honest investigation is inherent in every citizen and the petitioner in these circumstances prays that investigation may be directed to be conducted by any official of Police not at the Pattambi Police Station. This in short is the prayer made in these petitions seeking identical releif in respect of Crime Nos.49 and 50 of 2007.

5. Notice was given to the the learned Government Pleader. The Circle Inspector of Police, Pattambi Police Station has filed statements. In the statements the 3rd respondent contends that Pattambi Police has no animosity whatsoever against the petitioner and the needful, in accordance with law, has been done in all cases in which the petitioner is involved at the Pattambi Police Station. Whether the petitioner figures as an accused or as a complainant the needful has been done and there is no merit in the present complaint raised. The learned Government Pleader points out all the earlier crimes which had taken place as early as in 2004 and persons now at the Pattambi Police Station are not in any way concerned or connected with those earlier crimes. The alleged

rough deal which the petitioner had received from the Pattambi Police Station earlier, even assuming the same to be true, there is nothing to indicate that the present personnel in charge of the Pattambi Police Station have any animosity or ill will against the petitioner.

6. The learned Public Prosecutor further submits that crime No.129/2004 and 353/2004 have already been charge sheeted. Cognizance has been taken and the cases are pending before the courts.

7. In so far as crime Nos.49/2007 and 50/2007 are concerned the 3rd respondent asserts and the learned Government Pleader argues that all the necessary steps have been taken. Except unsubstantiated allegations of a prejudice entertained by the Pattambi Police Station against the petitioner, no specific or tangible reason/ground has been shown to infer that investigation into the crime Nos.49 and 50/2007 have not been done properly.

8. I appreciate the anxiety of the petitioner who feels that he has not been properly dealt with by the Pattambi Police Station on earlier occasions. I must also remember that an accused person

has no right to choose his investigator. No specific allegations of mala fides or improper conduct of the investigation is precisely raised or substantiated. In these circumstances I am of the opinion that there is no merit in the prayer to direct the investigation into the crime Nos.49 and 50/2007 by the 4th respondent after removing the 3rd respondent from that responsibility.

9. However, in the background of the facts and circumstances of the case, I am satisfied that it will only be proper to direct the 2nd respondent to personally supervise the investigation conducted by the 3rd respondent in crimes 49/2007 and 50/2007. If there be any specific instance of inadequacy/ impropriety in the conduct of the investigation, the 2nd respondent-Superintendent of Police shall immediately take necessary corrective steps. At the moment considering the available inputs it is impossible for this Court to pin point and say that the investigation suffers from any major vice or inadequacy.

10. In the result these petitions are allowed in part. The other reliefs claimed are not granted. It is directed that the 2nd

respondent-the Superintendent of Police,Palakkad shall personally supervise and monitor the investigation conducted by the 3rd respondent-C.I. of Police Pattambi Police Station in crimes 49/2007 and 50/07 of that police station. If there be any serious inadequacy, error or impropriety in the conduct of the investigation in those crimes, necessary corrective steps shall be taken by the 2nd respondent/ Superintendent of Police.

Hand over copy of this order to the learned Government Pleader for immediate communication to the 2nd respondent and appropriate further action by the 2nd respondent.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE